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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

089229.00007

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Application Number:

10/018,502

Filed: February 25, 2002

First Named Inventor:

Kimmo NARKILAHTI

Art Unit: 2617

Examiner: Sharad K. RAMPURIA

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed (Form PTO/SB/96)

☒ Attorney or agent of record.
Registration No. 52,738

☐ Attorney or agent acting under 37 CFR 1.34.
Registration Number if acting under 37 CFR 1.34 _____

November 12, 2008
Date

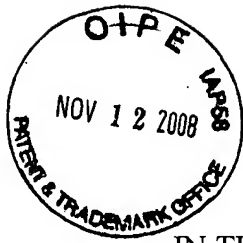
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NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:
Kimmo NARKILAHTI, *et al.*
Application No.: 10/018,502
Filed: February 25, 2002

Confirmation No.: 2649
Art Unit: 2617
Examiner: Sharad K. Rampuria
Attorney Dkt. No.: 089229.00007

For: METHOD AND SYSTEM FOR DETERMINING OPERATING MODES OF USERS OF
A TELECOMMUNICATION SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

November 12, 2008

Sir:

Applicants hereby submit this Pre-Appeal Brief Request for Review ("PABRR") of the final rejections of claims 1-24 in the above identified application. Claims 1-24 were finally rejected in the Final Office Action dated August 14, 2008 ("Office Action"). Applicants filed a Response to the Office Action on September 24, 2008 ("Applicants' Response"). The Office issued an Advisory Action dated October 30, 2008 ("Advisory Action"). Applicants hereby appeal these rejections and submit this PABRR. A Notice of Appeal is timely filed herewith.

Applicants respectfully submit that the cited references fail to disclose or suggest every element recited in claims 1-24, rendering the rejections clearly erroneous. Applicants' Response presented arguments demonstrating the Office Action's failure to demonstrate that Knight and Owensby disclose or suggest every element recited in claims 1-24. Applicants respectfully request reconsideration of the arguments presented in Applicants' Response and submitted herewith, and respectfully submit that claims 1-24 are in condition for allowance.

The Office Action rejected claims 1-24 under 35 U.S.C. §103(a) as being allegedly unpatentable over Knight, *et al.* (United Kingdom Publication No. GB 2327175) ("Knight") in view of Owensby (U.S. Publication No. 2002/0077130). Applicants respectfully submit that the aforementioned claim rejections are in clear error, and therefore respectfully request withdrawal of the claim rejections for at least the reasons discussed below.

Clear Error: "filtering user-specific information corresponding to the defined at least one variable or the combination of variables from the information collected from the telecommunication system; and classifying the users of the telecommunication system based on the filtered user-specific information into various classes indicative of a user's

behavior patterns during use of the telecommunication system” is not disclosed in Knight or Owensby

Assuming *arguendo* that the teachings of Knight could be combined with the teachings of Owensby, the combination of Knight and Owensby would fail to disclose or suggest each and every element recited in claims 1, 13, and 19. Specifically, the combination of Knight and Owensby would fail to disclose or suggest, at least, “filtering user-specific information corresponding to the defined at least one variable or the combination of variables from the information collected from the telecommunication system; and classifying the users of the telecommunication system based on the filtered user-specific information into various classes indicative of a user’s behavior patterns during use of the telecommunication system,” as recited in claim 1 (emphasis added).

The Office Action alleged that Knight discloses the step of filtering user-specific information, citing page 3, line 16, to page 4, line 6, and page 4, line 31, to page 5, line 34. In response to Applicants’ arguments, the Office Action alleged that Knight discloses the aforementioned claim features, stating that Knight teaches, “the user’s call is treated based on the user’s profile stored in the user’s database in the telecommunication system” and “a channel analyzer monitors the level of changes ... and processes the information to the user based on particular function.” (See Office Action: *Response to Arguments* on page 6; Advisory Action: *Response to Remarks* on page 2). The Office Action concluded that the explanations provided above are directed to telecommunication systems and a method for the user’s call being treated based on the user’s profile stored in the user’s database in the telecommunication system and for processing the information to the user based on a particular function, and therefore, Knight still teaches the claimed limitations (*Id.*). Applicants respectfully disagree.

Rather, a review of these passages demonstrates that Knight fails to disclose or suggest the aforementioned claim features. The Office Action’s remarks failed to address each of Applicant’s arguments demonstrating that Knight and Owensby, whether taken individually or in combination, fail to disclose or suggest, at least, “filtering user-specific information corresponding to the defined at least one variable or the combination of variables from the information collected from the telecommunication system; and classifying the users of the telecommunication system based on the filtered user-specific information into various classes

indicative of a user's behavior patterns during use of the telecommunication system,” as recited in claim 1 (emphasis added), as discussed below.

Rather, Knight merely discloses automatic downloading of data according to predicted data requirements. A base station analyzes data associated with calls made by users of that station in order to form user usage profiles. The profiles are stored in a database, and then used to calculate or predict future usage. Based on those calculations, speculative connections are made available to specific users at presumably optimum times from the station's perspective in anticipation of demand. This is particularly applicable to data networks whereby users typically access data services at the same time each day. A change analyzer can determine a degree of change occurring in data pages, and can decide whether a whole page or just the modifications to the page should be sent to the subscriber. Call related data may include dialed call instructions, time of call, the location from which a call is dialed out/received, access to the Internet, and access to information services (Knight, Abstract; page 3, line 16, to page 5, line 34).

Knight makes no mention of “filtering user-specific information corresponding to the defined at least one variable or the combination of variables from the information collected from the telecommunication system” (emphasis added). As noted in the Office Action on page 4, Knight fails to disclose or suggest, at least, “classifying the users of the telecommunication system based on the filtered user-specific information into various classes indicative of a user's behavior patterns during use of the telecommunication system,” as recited in claim 1 (emphasis added). Accordingly, Applicants respectfully submit that Knight fails to disclose or suggest any method or system which defines variables, filters user-specific information, and classifies users based upon the filter user-specific information as recited in claim 1.

Applicants respectfully submit that Owensby fails to cure the deficiencies of Knight. Owensby merely discloses Subscriber Profile Data, which may include demographic data or personal preference data, which is entered by a wireless mobile subscriber or selected by sponsors of messages to be targeted to the subscriber. Messages are targeted to the subscriber identified by the subscriber's Subscriber ID code based on the Subscriber Profile Data in addition to the location of the wireless mobile device (Owensby, [0013], [0053], and [0055]).

Owensby further discloses a call identification code and date and time data used to identify a wireless mobile subscriber communication relative to other wireless mobile

communications occurring at or about the same time. The date and time data can be used to determine and record the date and time of the wireless mobile communication. Together with the wireless mobile location data, the call identification code and the date and time data permit historical response data to be compiled and stored in a conventional electronic data input, storage and retrieval device. From the historical response data, historical movement patterns of the subscribers can be determined. The historical response data is continuously updated to determine the most recent responses to the targeted messages previously provided to the subscriber. Hence, the historical response data permits messages, and in particular commercial information and advertisements to be targeted to as broad or narrow a range of subscribers as desired by the sponsor of messages (Owensby, [0014]-[0015], [0053], and [0055]).

The teachings of Owensby make no mention of “defining at least one variable or combination of variables of a telecommunication system,” as recited in claim 1. Furthermore, Owensby fails to disclose or suggest, at least, “filtering user-specific information corresponding to the defined at least one variable or the combination of variables from the information collected from the telecommunication system.” Rather, Owensby merely describes a selection process based completely on data that is not collected from the telecommunication system, *e.g.*, subscriber profile data that was manually entered, messages previously provided to the subscriber, etc. (Owensby, [0053]-[0055]).

Furthermore, Owensby fails to disclose or suggest, at least, “classifying the users of the telecommunication system based on the filtered user-specific information into various classes indicative of a user’s behavior patterns during use of the telecommunication system” (emphasis added). Specifically, Owensby fails to mention or refer to *various classes* indicative of the user’s behavior patterns during use of the telecommunication system. Rather, Owensby’s selection process is performed based on collected/manually configured personal subscriber data and the historical response data related to the messages provided previously to the subscriber (Owensby, [0055]). Therefore, a *classification of a user* of the telecommunication system in Owensby is not “based on the filtered user-specific information into various classes indicative of a user’s behavior patterns during use of the telecommunication system,” as recited in claim 1.

Furthermore, Knight and Owensby are both targeted to a single user *at any point in time*. Knight monitors the call data of each user separately to predict future usage of service for *that*

individual user. Knight then initiates actions to prepare data related to the service by the individual user in advance, in order to allow a faster and more efficient provisioning of the service when it is used by the user the next time. Similarly, Owensby monitors collected individual user data collected, manually configured user data, and the historical response data related to the messages provided previously to the subscriber to select targeted messages, such as advertising material, for *that* individual user.

Whereas, the present invention is directed to a telecommunication system, wherein the data of *all* users are collected, filtered, and classified, in order to perform an analysis at the system level and to regulate parameters of the system. System level resources are therefore configured to yield the significant advantages which are discussed in the specification.

Although the clear errors noted above are submitted with respect to the rejections presented for claim 1, the same clear errors exist with respect to each of the rejections of each of the claims. Accordingly, the Office Action's rejections of claims 2-24 under 35 U.S.C. §103(a) based on Knight and Owensby are in clear error for at least the reasons discussed above. Therefore, claims 2-24 should be in condition for allowance. Accordingly, these rejections should be summarily withdrawn. Therefore, Applicants respectfully submit that the aforementioned claim rejections are in clear error, and therefore respectfully request withdrawal of the claim rejections for at least the reasons discussed above.

Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested. In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: PTO/SB/33 Form, Notice of Appeal, Check No. 000019985